

## REMARKS

Claims 1-13 are rejected. Claims 1-13 remain pending. No new matter has been added

### 35 U.S.C. §103 Rejections

#### Claims 1-4 and 13

Claims 1-4 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely et al., U.S. Patent No. 6,188,391, hereinafter “Seely” and further in view of Zurcher (4,028,509).

With respect to Claims 1-4 and 13, Applicants respectfully assert that Bick, Seely and Zurcher alone or in any combination fail to teach or suggest subject matter recited within Independent Claim 1.

Independent Claim 1 recites: “A capacitive sensing device for use in a keypad assembly of an electronic system, said capacitive sensing device comprising:

a substantially transparent single sheet capacitive sensor, said substantially transparent single sheet capacitive sensor configured to be disposed within said keypad assembly without requiring the formation of key post holes therethrough, said substantially transparent single sheet capacitive sensor is coupled to a keymat having a plurality of keys formed therein, said substantially transparent single sheet capacitive sensor integrated within said keymat; and said substantially transparent single sheet capacitive sensor having a flexibility which enables desired tactile response during use of said plurality of keys of said keypad assembly” (emphasis added).

Applicants agree with the statement on page 3 at approximately line 9 of the current Office Action. That is, Applicants also do not understand Bick to disclose a substantially transparent single sheet capacitive sensor (emphasis added).

Moreover, Applicants respectfully agree with the statement on page 3 at approximately line 20 of the current Office Action that “[S]eely does not disclose expressly wherein the PCB is flexible and transparent so as to be incorporated into the electronic system of Bic,”.

However, Applicants respectfully disagree that Zurcher overcomes the shortcomings of Bick in view of Seely.

Applicants respectfully submit that Zurcher is not analogous art. That is, Applicants do not understand Zurcher to teach a capacitive type sensor. Further, assuming arguendo that Seely is analogous art, in the present Office Action, support for the analogous art argument for Seely is provided at page 3 approximately lines 9-11 (“[a]nalogous in art with Bick in that both references are directed towards detecting user input in a semiconductor device through the use of capacitive type sensors”). In addition, assuming arguendo that Kleinhans is analogous art, in the present Office Action, support for the analogous art argument for Kleinhans is provided at page 6 approximately lines 14-16 (“[K]leinhans discloses a capacitive sensing device in Figures 1 through 3, in analogous art”). However, Applicants can find no assertion by the present Office Action that Zurcher is analogous art.

Further, with respect to the combination of Bick, Seely and Zurcher, Applicants respectfully submit a rejection based on section 103 must rest upon a factual basis rather than conjecture, or speculation. "Where the legal conclusion [of obviousness] is not supported by the facts it cannot stand." In re Warner, 379 F.2d 101 1, 1017, 154 USPQ 173, 178 (CCPA 1967). See also In re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002) and In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

That is, Applicants respectfully contend that the modification of Bick in view of Seely and Zurcher as suggested in the present Office Action is inappropriate as Seely has solved the capacitive sensor/Key pad issue with the use of a PCB having holes there through such that a key pushed above the PCB capacitive sensor can register with a specific sensor below the PCB via the use of through-holes.

With respect to Seely, Applicants contend that the Seely disclosure would not be a proper basis for the combination as there is no provision in the present Office Action to show how a printed circuit board (PCB) (at least Abstract, Figs. 6-8 and Col. 6 lines 55-63) having solved the

problem of capacitive sensor flexibility with the use of through-holes, would have made the present Claimed features obvious to a person of ordinary skill in the art.

Similarly, Applicants understand Zurcher to also teach a plurality of through-holes directly between the tab portions of the deformable array portion and the conductive strip portion of the stationary contact array (column 4 lines 45-50).

Moreover, Applicants do not understand Zurcher to teach a single sheet, but instead, teach a foldable flexible conductor as shown in Figures 1-5.

Thus, the modification as suggested in the present Office Action would significantly change the method of operation of both Seely and Zurcher and would teach directly away from the claimed feature, “a substantially transparent single sheet capacitive sensor, said substantially transparent single sheet capacitive sensor configured to be disposed within said keypad assembly without requiring the formation of key post holes there through” (emphasis added).

In contrast, Applicants contend that Seely and Zurcher teach opposite approaches than those of the Claimed features. Thus, if the suggested combination of Bick, Seely and Zurcher were realized, Applicants submit the most obvious and least complex modification for ensuring the proper key dome was depressed would be placing holes into the PCB capacitive sensor of Seely. Therefore, the specific solution and changes considered in each of the references results in different treatments of performing a contact and implementing keyboards. As such, the differences between these approaches would not have prompted a person of ordinary skill in the relevant field to combine the elements in the way the instant claims require. Thus, Applicants respectfully submit the present rejection rests on speculation and less than a preponderance of the evidence and thus, fails to render Claim 1 unpatentable for obviousness under 35 U.S.C. 103(a) over Bick, Seely and Zurcher.

With respect to Claims 2 and 13, Applicants respectfully submit the rejection fails to provide a prima facie case of obviousness as the combination as taught in the present Office Action did not account for the referenced subject matter as a whole.

For these reasons, Applicants respectfully submit that the rejection of Claims 2 and 13 based on the combination of Bick, Seely and Zurcher is improper as the combination does not provide a prima facie case of obviousness. As such, Applicants respectfully submit that Claims 2 and 13 are not taught or rendered obvious over Bick, Seely and Zurcher, and as such the rejection under 35 U.S.C. §103(a) is overcome.

Also, since Claims 2-4 and 13 depend from Independent Claim 1, Applicants respectfully submit Claims 2-4 and 13 derive patentability at least therefrom.

#### Claims 5-12

Claims 5-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick, Seely and Zurcher and further in view of Kleinhans et al., U.S. Patent No. 6,664,489, hereinafter Kleinhans.

With respect to Claims 5-12, Applicants respectfully assert that Bick, Seely and Zurcher and further in view of Kleinhans fails to teach or suggest subject matter recited within Claims 5-12 for the following rationale.

Applicants respectfully contend, for the reasons provided herein, that Claim 1 is allowable.

As such, Applicants respectfully submit that Claims 5-12 depend from Independent Claim 1 and derive patentability at least therefrom.

In addition, Applicants respectfully submit that the addition of Kleinhans does not overcome the shortcomings of the combination of Bick in view of Seely and further in view of Zurcher as provided herein.

For these reasons, Applicants respectfully submit that the rejection of Claims 5 and 10 based on the combination of Bick, Seely and Zurcher and further in view of Kleinhans is

improper as the combination does not provide a prima facie case of obviousness. As such, Applicants respectfully submit that Claims 5 and 10 are not taught or rendered obvious over Bick in view of Seely and Zurcher and further in view of Kleinhans, and as such the rejection under 35 U.S.C. §103(a) is overcome.

### CONCLUSION

In light of the above listed remarks, Applicants respectfully request allowance of rejected Claims 1-13.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Please charge any required fees or credit any overpayments to Deposit Account Number: 50-4157.

Respectfully submitted,

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